

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

MICHAEL SALAS and VELMA NEZ,

Plaintiffs,

vs.

No. 1:15-CV-00197 KG/LF

PAUL MONTOYA and CHRISTOPHER PEÑA,
in their individual capacities,

Defendants.

PARTIAL SUMMARY JUDGMENT ORDER

This matter comes before the Court upon Defendants' Motion for Summary Judgment, filed December 15, 2015. (Docs. 26 and 27). Plaintiffs responded to the motion on December 27, 2015. (Doc. 29). Defendants replied on January 11, 2016. (Doc. 30). The Court held a telephonic hearing on the above motion on December 13, 2016, and Elizabeth Farrington and Paul J. Kennedy, counsel for Plaintiffs, and Deborah D. Wells, counsel for Defendants were present. Having considered the motions, responses and arguments of counsel at the December 13, 2016, hearing, the Court reconvened the following day to deliver its ruling on the record. Ms. Farrington and Ms. Wells were present at the telephonic hearing on December 14, 2016. For the reasons stated on the record at the hearing on December 13, 2016;

IT IS ORDERED that Defendants' Motion for Summary Judgment is granted, in part, and denied, in part, as follows:

1. The motion is denied as to Count I: 42 U.S.C. Section 1983 Unreasonable Seizure, Unlawful Detention and Unlawful Arrest claims;
2. Summary judgment is entered in favor of Officer Christopher Peña on Plaintiffs' Count II: 42 U.S.C. Section 1983 Deprivation of Property without Due Process claims, and those claims are dismissed with prejudice;

3. Summary judgment is entered in favor of Officer Paul Montoya on Plaintiff Michael Salas' Count II: 42 U.S.C. Section 1983 Deprivation of Property without Due Process claim, and that claim is dismissed with prejudice;

4. The motion is denied as to Plaintiff Velma Nez's Count II: 42 U.S.C. Section 1983 Deprivation of Property without Due Process claim as it relates to Officer Montoya;

5. The motion is denied as to Count III: New Mexico Tort Claims Act (NMTCA) False Imprisonment/False Arrest claims;

6. Summary judgment is entered in favor of Officer Peña and Officer Montoya on Plaintiffs' Count III: NMTCA Malicious Prosecution claims, and those claims are dismissed with prejudice;

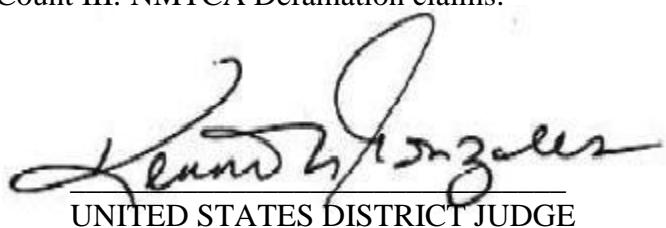
7. Summary judgment is entered in favor of Officer Christopher Peña on Plaintiffs' III: NMTCA Deprivation of Property without Due Process claims, and those claims are dismissed with prejudice;

8. Summary judgment is entered in favor of Officer Paul Montoya on Plaintiff Michael Salas' Count III: NMTCA Deprivation of Property without Due Process claim, and that claim is dismissed with prejudice;

9. The motion is denied as to Plaintiff Velma Nez's Count III: NMTCA Deprivation of Property without Due Process claim as it relates to Officer Montoya;

10. Plaintiffs have withdrawn their Count III: NMTCA Defamation claims.

IT IS SO ORDERED.



Lewis A. Gonzales
UNITED STATES DISTRICT JUDGE